

FIRST APPEAL No 652 of 1980

Hon'ble MR.JUSTICE A.R.DAVE

[illegible][illegible]

Versus

Appearance:

MR VC DESAI for Petitioners

M/S TRIVEDI & GUPTA for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 05/05/2000

ORAL JUDGEMENT

In this appeal the appellants have challenged the validity of the judgment and decree dated 29.1.1980 passed in Special Civil Suit No. 67/78 by the Civil Judge (S.D.), Ahmedabad Rural at Narol.

2. In view of the development which has taken place during pendency of the appeal, I do not think it necessary to discuss the facts of the case in detail. Suffice it to state that the original defendant, that is, the respondent, had agreed to sell land admeasuring 1090 square yards situated at Odhav forming part of land bearing Survey No. 534. The appellants, who are original plaintiffs, had filed the suit with a prayer that, in pursuance of an agreement which was executed between the plaintiffs and the defendant, the sale deed should be executed and possession of the land in question should be handed over to the plaintiffs. The suit was dismissed. The main controversy was with regard to the rate at which the land in question was to be sold. According to the plaintiffs, the land was purchased at the rate of Rs. 11 per square yard whereas, according to the defendant, the purchase price ought to have been Rs. 21 per square yard.

3. During pendency of the appeal, the appellants, original plaintiffs, have agreed to pay a sum of Rs. 21 per square yard to the defendant respondent towards purchase price and the controversy has come to an end. However, the only question remaining is with regard to the interest, if any, to be paid by the plaintiffs on the amount of purchase price, which is yet to be paid by them to the defendant.

4. Looking to the facts of the case, it appears that the ends of justice would be served if the plaintiffs are asked to pay simple interest at the rate of 10% p.a. to the defendant along with purchase price of Rs. 21 per square yard in respect of the land in question. The amount of interest will be calculated with effect from 13.10.1976, the date on which a document whereby certain other lands were to be exchanged amongst the parties was executed, till the date on which the amount is paid to the defendant Corporation by the plaintiffs. The said amount shall be paid by the plaintiffs to the defendant on or before 31.7.2000 and within one week therefrom the defendant shall hand over possession of the land in question to the plaintiffs and execute necessary documents to complete the sale.

5. In view of what is stated hereinabove, the judgment and decree passed by the trial court in Special

Civil Suit No. 67/78 is set aside and the appeal is allowed in terms of the direction given in para 4 hereinabove with no order as to costs. Decree to be drawn accordingly.

(hn)